

Gregory W. Mitchell
THE MITCHELL LAW FIRM, L.P.
12720 Hillcrest Road, Suite 625
Dallas, Texas 75230
(972)463-8417 – Office
(972)432-7540 – Facsimile
State Bar ID: 00791285
ATTORNEYS FOR APPELLANT KYLE LAWRENCE

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

Kyle Lawrence

Appellant

v.

Frost Bank

Appellee

§
§
§
§
§
§
§
§
§
§
§

Appeal No. 3:19-cv-01843-X

APPELLANT’S SECOND MOTION FOR LEAVE TO SUPPLEMENT RECORD

INTRODUCTION

1. Pursuant to Fed. R. Bankr. Proc. 8009(e), Appellant Kyle Lawrence (“**Appellant**” or “**Lawrence**”) respectfully seeks to supplement the appellate record with the following matters that were omitted from the record on appeal:

- (1) Frost Bank’s trial exhibits;
- (2) Kyle Lawrence’s Exhibit EE;
- (3) The pre-trial order (Dkt. #78);
- (4) Frost Bank’s disclosures.

ARGUMENT

- (1) Frost Bank’s Trial Exhibits

2. Despite Appellant's listing of "all trial exhibits" in his Designation of Record on Appeal (*see* Item #37 therein), the bankruptcy court record did not include Frost Bank's trial exhibits.

3. The omission was not recognized until Appellant sought to cite Appellee's exhibits in his initial draft of his appellate brief.

4. Appellant has discussed this omission with the bankruptcy court liaison, and the exhibits are prepared to be transmitted once this Motion is approved.

(2) Exhibit EE

5. Similarly, despite Appellant's listing of "all trial exhibits" in his Designation of Record on Appeal, the bankruptcy court record did not include Appellant's Exhibit EE. Such exhibit was actually a Frost document that was admitted at trial,¹ but of which Appellant does not have a copy.

(3) Pre-Trial Order

6. Neither Appellant nor Appellee include the pre-trial order in the record.

7. An issue on appeal is whether certain matters were outside the scope of the causes of action asserted, and therefore the pre-trial order is relevant to consideration of that issue. Its omission was an inadvertent oversight.

8. A copy of the pre-trial order is attached hereto as **Exhibit B**.

(4) Frost Disclosures

9. With relevance similar to the Pre-trial Order, Appellant seeks to include as part of the appellate record Appellee's initial disclosures.

¹ See docket text noting admission of Exhibit EE (dkt. #94), a copy of which is attached hereto as **Exhibit A**.

10. Appellant asserts that such disclosures reveal the absence of numerous matters on which the Bankruptcy Court inappropriately made findings and conclusions. Consistent with corresponding omissions in Appellee's Complaint and the Pre-trial Order entered in the case, Appellant seeks to include these disclosures in the record on appeal, a copy of which is attached hereto as **Exhibit C**.

DATED this 6th day of November, 2019.

Respectfully submitted,

THE MITCHELL LAW FIRM, L.P.

/s/ Gregory W. Mitchell

Gregory W. Mitchell
12720 Hillcrest Road, Suite 625
Dallas, Texas 75230
(972)463-8417 – Office
(972)432-7540 – Facsimile
State Bar ID: 00791285
E-mail: greg@mitchellps.com
ATTORNEY FOR APPELLANT, KYLE
LAWRENCE

CERTIFICATE OF CONFERENCE

I hereby certify that on November 5, 2019, I communicated with Mr. M. Chad Berry regarding this Motion and the relief requested. Mr. Berry indicated that Appellee is unopposed to the relief requested with respect to items (1), (2), and (3) as identified above. However, Appellee is opposed to the relief requested with respect to item (4).

/s/ Gregory W. Mitchell

Gregory W. Mitchell
Attorney for Appellant

CERTIFICATE OF SERVICE

I hereby certify that on this **6th day of November, 2019**, the foregoing was served on all counsel of record in this matter via the Court's ECF system.

/s/ Gregory W. Mitchell

Gregory W. Mitchell
Attorney for Appellant